

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSHUA J. BURKE,

Plaintiff,

v.

Case No. 24-cv-11770

Honorable Jonathan J.C. Grey

LENAWEE COUNTY JAIL,

Defendant.

/

OPINION AND ORDER

**(1) DENYING THE APPLICATION TO PROCEED WITHOUT
PREPAYMENT OF THE FILING FEE, (2) DISMISSING THE
CIVIL RIGHTS COMPLAINT, AND (3) CONCLUDING THAT AN
APPEAL CANNOT BE TAKEN IN GOOD FAITH**

Joshua J. Burke, currently confined at the Lenawee County Jail in Adrian, Michigan, has filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983 concerning excessive force claims and violations of due process related to his 23-hour confinement in the “hole” and the fact of his present confinement in jail. ECF No 1. Burke also has filed an application to proceed without prepayment of costs. ECF No. 4.

The mandatory language of U.S.C. § 1915 requires the Court to dismiss this case if “the allegation of poverty is untrue.” 28 U.S.C. § 1915(e)(2)(A). Although Burke alleges he lacks the funds to pay the required fees, his application avers that he has over \$7,000.00 in a savings account. ECF No. 4. The Court concludes from the application that Burke fails to establish indigence and that he can pay the \$350 filing fee and \$55 administrative fee for this civil action.

Accordingly, the Court **DENIES** Burke’s application to proceed without prepayment of fees or costs and **DISMISSES WITHOUT PREJUDICE** his civil rights complaint. Finally, because an appeal could not be taken in good faith, the Court **DENIES** leave to proceed in forma pauperis on appeal should Petitioner decide to appeal this decision. 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

s/Jonathan J.C. Grey
JONATHAN J.C. GREY
UNITED STATES DISTRICT JUDGE

Dated: September 10, 2024

Certificate of Service

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First-Class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 10, 2024.

s/ S. Osorio
Sandra Osorio
Case Manager